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SENATE BILL 262

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO PUBLIC ACCOUNTANCY; PROVIDING FOR THE NONRENEWAL OF
CERTIFICATES AND PERMITS WITHOUT A HEARING FOR FAILURE TO PAY
RENEWAL FEES; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 61-28B-9 NMSA 1978 (being Laws 1999,
Chapter 179, Section 9) is amended to read:

"61-28B-9. ISSUANCE AND RENEWAL OF CERTIFICATE--
MAINTENANCE OF COMPETENCY.--

A. The board shall grant or renew a certificate
upon application and demonstration that the applicant's
qualifications are in accordance with the 1999 Public
Accountancy Act or that they are eligible under the substantial
equivalency standard provided in that act.

B. The board may establish by rule for the issuance

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1 of [~~biennial~~] annual certificates [~~and permits~~] and may
2 prescribe the expiration date of certificates. [~~and permits~~]
3 Failure to pay the renewal fee shall be cause for the board to
4 withhold renewal of a certificate without prior hearing
5 pursuant to the provisions of the Uniform Licensing Act. If
6 the renewal fee and delinquency fee are not paid within ninety
7 days after the expiration date of the license, the certificate
8 shall be subject to cancellation. A certificate holder whose
9 certificate has been canceled for failure to pay the annual
10 renewal fee may secure reinstatement of the certificate only
11 upon application and payment of the renewal fee and
12 reinstatement fee and upon approval by the board.

13 C. The board shall grant or deny an application for
14 certification no later than one hundred twenty days after the
15 complete application is filed.

16 D. If an applicant appeals the decision of the
17 board to deny a certificate, the board may issue a provisional
18 certificate for no longer than ninety days while the board
19 reconsiders its decision.

20 E. To renew a certificate, a certificate holder
21 shall provide satisfactory proof to the board of continuing
22 professional education that is designed to maintain competency.
23 Continuing professional education courses shall comply with
24 board rules. The board may create an exception to the
25 requirement to maintain continuing professional education for

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1 certificate holders who do not provide services to the public.
2 A certificate holder granted such an exception must place the
3 word "inactive" or "retired" adjacent to his certified public
4 accountant title or registered public accountant title on a
5 business card, letterhead or other document or device, except
6 for a board-issued certificate.

7 F. An applicant for initial issuance or renewal of
8 a certificate pursuant to this section shall list all foreign
9 and domestic jurisdictions in which the applicant has applied
10 for or holds a designation to practice public accountancy. The
11 applicant shall also list any past denial, revocation or
12 suspension of a certificate, license or permit. An applicant
13 or certificate holder shall notify the board in writing, within
14 thirty days of the occurrence of any issuance, denial,
15 revocation or suspension of a designation or commencement of a
16 disciplinary or enforcement action by any jurisdiction. "

17 Section 2. Section 61-28B-13 NMSA 1978 (being Laws 1999,
18 Chapter 179, Section 13, as amended) is amended to read:

19 "61-28B-13. FIRM PERMITS TO PRACTICE, ATTEST EXPERIENCE,
20 PEER REVIEW. --

21 A. The board may grant or renew a permit to
22 practice as a firm to an applicant that demonstrates its
23 qualification for the permit as provided in Subsection E of
24 this section. A firm must hold a permit issued pursuant to the
25 provisions of the 1999 Public Accountancy Act in order to

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1 provide attest services or use the title "certified public
2 accountant", "CPA", "certified public accountant firm", "CPA
3 firm", "registered public accountant", "RPA", "registered
4 public accountant firm" or "RPA firm".

5 B. Permits shall be issued and renewed for periods
6 not more than two years, expiring on June 30 of the year of
7 expiration. Failure to pay the renewal fee shall be cause for
8 the board to withhold renewal of a [~~certificate~~] permit without
9 prior hearing pursuant to the provisions of the Uniform
10 Licensing Act. [~~A certificate holder whose certificate has~~
11 ~~been canceled for failure to pay the annual renewal fee may~~
12 ~~secure reinstatement of his certificate upon payment of the~~
13 ~~delinquency fee set by the board. If the renewal fee and~~
14 ~~delinquency fee are not paid by September 30 of the year in~~
15 ~~which the renewal fee was due, a certificate shall be~~
16 ~~reinstated only upon application and examination satisfactory~~
17 ~~to the board.] If the renewal fee and delinquency fee are not
18 paid within ninety days after the expiration of the permit, the
19 permit shall be subject to cancellation. A firm whose permit
20 has been canceled for failure to pay the annual renewal fee may
21 secure reinstatement of the permit upon application and payment
22 of the renewal fee and upon approval by the board.~~

23 C. The board shall grant or deny an application for
24 a permit no later than ninety days after the complete
25 application is filed.

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D. If an applicant appeals the decision of the board to deny a permit, the board may issue a provisional permit for no longer than ninety days while the board reconsiders its decision.

E. An applicant for initial issuance or renewal of a permit shall demonstrate that:

(1) a simple majority of the ownership of the firm, in terms of financial interests, profits, losses, dividends, distributions, options, redemptions and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state. Such partners, officers, shareholders, members or managers, whose principal place of business is in New Mexico, and who perform professional services in New Mexico, must hold a valid certificate. The firm and all owners must comply with the 1999 Public Accountancy Act. A firm may include owners who are not certificate holders; provided that:

(a) the firm designates a New Mexico certificate holder who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) all owners who are not certificate holders are active individual participants in the certified public accountant firm or registered public accountant firm or affiliated entities; and

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1 (c) the firm complies with the 1999
2 Public Accountancy Act; and

3 (2) an individual certificate holder who is
4 responsible for supervising attest services or signs or
5 authorizes someone to sign the accountant's report on the
6 financial statements on behalf of the firm meets the experience
7 requirements set out in the professional standards for such
8 services.

9 F. An applicant for initial issuance or renewal of
10 a permit shall be required to register each office of the firm
11 within New Mexico with the board and to show that all attest
12 services rendered in this state are under the charge of a
13 person holding a valid certificate issued pursuant to the 1999
14 Public Accountancy Act or the corresponding provision of prior
15 law or by some other state.

16 G. An applicant for initial issuance or renewal of
17 a permit shall list all foreign and domestic jurisdictions in
18 which it has applied for or holds permits as a certified public
19 accountant firm and list any past denial, revocation or
20 suspension of a permit by any jurisdiction. Each permit holder
21 or applicant shall notify the board in writing, within thirty
22 days of the occurrence of a change in the identities of
23 partners, officers, shareholders, members or managers whose
24 principal place of business is in this state, a change in the
25 number or location of offices within this state, a change in

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1 the identity of the persons in charge of such offices and any
2 issuance, denial, revocation or suspension of a permit by
3 another jurisdiction.

4 H. A firm that falls out of compliance with the
5 provisions of the 1999 Public Accountancy Act due to changes in
6 firm ownership or personnel shall take corrective action to
7 bring the firm back into compliance as quickly as possible.
8 The board may grant a six-month period for a firm to take the
9 corrective action. Failure to bring the firm back into
10 compliance within six months shall result in the suspension or
11 revocation of the firm permit.

12 I. As a condition to permit renewal, the board
13 shall require the applicant to undergo a peer review conducted
14 in accordance with board rules. The review shall include a
15 verification that a person in the firm who is responsible for
16 supervising attest services and signs or authorizes someone to
17 sign the accountant's report on the financial statements on
18 behalf of the firm meets the experience requirements set out in
19 the professional standards for the services as required by the
20 board.

21 J. If a partner, shareholder or member is a legal
22 business entity, that legal business entity must be a firm.

23 K. Attest services may only be provided by a
24 certificate holder or a member of a firm that satisfies the
25 requirements of this section. Attest services may not be

1 performed by a certificate holder who is a member of a firm
2 that does not meet the certificate holder's ownership
3 requirements set forth in this section. "

4 Section 3. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 2005.

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